**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**
**BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**
**Attorney Docket No.: 14283US02**

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| In the Application of: | ) | |
| | ) | |
| Jeyhan Karaoguz, et al. | ) | **Electronically Filed On December 14, 2010** |
| | ) | |
| Serial No.: 10/667,829 | ) | |
| | ) | |
| Filed: September 22, 2003 | ) | |
| | ) | |
| For: MEDIA PROCESSING SYSTEM SUPPORTING USER CAPTURED MEDIA DISPLAY SEQUENCING WHEN IN IDLE STATE | ) | |
| | ) | |
| Examiner: Schnurr, John R. | ) | |
| | ) | |
| Group Art Unit: 2421 | ) | |
| | ) | |
| Confirmation No.: 1006 | ) | |

**APPEAL BRIEF**

Mail Stop Appeal Brief – Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

The Applicants respectfully request that the Board of Patent Appeals and Interferences reverse the final rejection of claims 1-12, 14-26, 28-32, and 34-48 of the present application. The Applicants respectfully request a two-month extension of time to respond. Thus, the period for response runs until December 14, 2010 (three months from the September 14, 2010 mailing date of the Notice of Panel Decision from Pre-Appeal Brief Review).

## REAL PARTY IN INTEREST
## (37 C.F.R. § 41.37(c)(1)(i))

The real party in interest is Broadcom Corporation, a corporation organized under the laws of the state of California, having a place of business at 5300 California Avenue, Irvine, California 92617, which has acquired the entire right, title and interest in and to the invention, the application, and any and all patents to be obtained therefor, as set forth in the Assignment recorded at Reel 014249, Frame 0376 in the PTO Assignment Search room.

## RELATED APPEALS AND INTERFERENCES
## (37 C.F.R. § 41.37(c)(1)(ii))

The Applicants are not currently aware of any proceedings that may be related to, directly affect or be directly affected by, or have a bearing on the Board's decision in the present appeal.

## STATUS OF THE CLAIMS
## (37 C.F.R. § 41.37(c)(1)(iii))

The present application includes claims 1-12, 14-26, 28-32, and 34-38, all of which stand rejected. The application originally included claims 1-28. Claims 29-38 were added in a September 5, 2007 Amendment. Claims 13, 27, and 33 were canceled without prejudice or disclaimer in a July 2, 2009 Amendment.

The Applicants identify claims 1-12, 14-26, 28-32, and 34-38 as the claims that are being appealed. The text of the claims involved in this Appeal is provided in the Claims Appendix.

## STATUS OF AMENDMENTS
## (37 C.F.R. § 41.37(c)(1)(iv))

Subsequent to the final rejection mailed April 27, 2010, the Applicants filed a Notice of Appeal and Pre-Appeal Brief Request for Review.[1] No claims were amended subsequent to the April 27, 2010 Final Rejection.[2]

The Applicants received a Notice of Panel Decision from Pre-Appeal Brief Review indicating that the application should proceed to the Board of Patent Appeals and Interferences.[3] **Notably**, the Panel consisted of **only** the Examiner, who presumably drafted the April 27, 2010 Final Office Action, and the Examiner's supervisor, who signed the April 27, 2010 Final Office Action.[4] No one removed from prosecution of the application independently reviewed the Pre-Appeal Brief Request for Review.

Thus, the Applicants submit this Appeal Brief.

## SUMMARY OF CLAIMED SUBJECT MATTER
## (37 C.F.R. § 41.37(c)(1)(v))

**Independent claim 1 recites the following:**

A system supporting media display sequencing,[5] the system comprising:

a television display[6] at a first[7] location;[8]

at least one display device[9] at a second[10] location that is separate and distinct from the first location;[11]

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[1] *See* July 27, 2010 Notice of Appeal and Pre-Appeal Brief Request for Review.
[2] *See id.*
[3] *See* September 14, 2010 Notice of Panel Decision from Pre-Appeal Brief Review.
[4] *See id.*
[5] *See* present application at, for example, page 4, lines 2-17.
[6] *See id.* at, for example, Figure 1, refs. 108, 110.
[7] *See id.* at, for example, page 11, lines 10-15, Figure 1, ref. 102.
[8] *See id.* at, for example, page 4, lines 3-4.
[9] *See id.* at, for example, Figure 1, ref. 113.
[10] *See id.* at, for example, page 11, lines 10-15, Figure 1, ref. 104.
[11] *See id.* at, for example, page 4, lines 18-20.

storage[12] at the first location for storing all idle state[13] media and all user scheduled[14] media;[15]

a user interface[16] for identifying particular media as one of the idle state media or the user scheduled media,[17] wherein the user scheduled media comprises selected media content stored at the first location, wherein the user interface is used to schedule the selected media content stored at the first location according to broadcast times,[18] and wherein the user interface is used to choose when the idle state media is displayed;[19]

set top box circuitry[20] at the first location[21] communicatively coupled to the storage at the first location to support consumption of the idle state media and the user scheduled media by the television display according to selected and scheduled times;[22] and

the set top box circuitry at the first location causing the displaying, from the storage at the first location, of idle state media when no user scheduled media is available on the television display at the first location and the at least one display device at the second location.[23]

**Independent claim 10 recites the following:**

A method of operating a system supporting user captured media display sequencing,[24] the method comprising:

selecting particular user stored media as one of idle state[25] media or user scheduled[26] media based upon input from a user at a first[27] location,[28] wherein the user scheduled media includes selected stored media arranged according to times;[29]

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[12] *See id.* at, for example, Figure 1, refs. 109 and 112.
[13] *See id.* at, for example, page 15, lines 12 to page 16, line 2.
[14] *See id.* at, for example, page 16, lines 6-9.
[15] *See id.* at, for example, page 4, line 4.
[16] *See id.* at, for example, page 12, line 20 to page 13, line 2, page 16, lines 3-14, Figure 1, ref. 107, Figure 2B, ref. 210.
[17] *See id.* at, for example, page 4, lines 4-6.
[18] *See id.* at, for example, page 26, lines 8-14, Figures 2B, 6, 7, and 8. .
[19] *See id.* at, for example, page 17, lines 3-21.
[20] *See id.* at, for example, page 20, lines 8-20.
[21] *See id.* at, for example, page 4, line 6.
[22] *See id.* at, for example, page 4, lines 6-10.
[23] *See id.* at, for example, page 4, lines 6-10, page 4, line 20 to page 5, line 1.
[24] *See id.* at, for example, page 5, lines 8-18.
[25] *See id.* at, for example, page 15, lines 12 to page 16, line 2.

storing all of the idle state media and all of the user scheduled media at the first location;[30]

causing the displaying of the idle state media through set top box circuitry at the first location and a second location according to a user defined sequence, if no user scheduled media is available;[31] and

refraining from causing the displaying of the idle state media through the set top box circuitry if user scheduled media is available.[32]

**Independent claim 21 recites the following:**

A method of operating a system supporting user captured media display sequencing,[33] the method comprising:

receiving media at a first[34] location;[35]

storing all of the media at the first location;[36]

selecting the media stored at the first location as idle state[37] media or user scheduled[38] media based upon input from a user,[39] wherein the user scheduled media is scheduled based on broadcasting time;[40]

causing the displaying of the idle state media through set top box circuitry at the first location and a second location according to a user defined sequence, when no user scheduled media is available;[41] and

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[26] *See id.* at, for example, page 16, lines 6-9.
[27] *See id.* at, for example, page 11, lines 10-15, Figure 1, ref. 102.
[28] *See id.* at, for example, page 5, lines 9-12, page 16, lines 1-2.
[29] *See id.* at, for example, page 26, lines 8-14, Figures 2B, 6, 7, and 8.
[30] *See id.* at, for example, page 4, line 4.
[31] *See id.* at, for example, page 5, lines 12-14, .
[32] *See id.* at, for example, page 5, lines 14-16, page 5, lines 19-21.
[33] *See id.* at, for example, page 6, line 12 to page 7, line 4.
[34] *See id.* at, for example, page 11, lines 10-15, Figure 1, ref. 102.
[35] *See id.* at, for example, page 6, line 14.
[36] *See id.* at, for example, page 4, line 4.
[37] *See id.* at, for example, page 15, lines 12 to page 16, line 2.
[38] *See id.* at, for example, page 16, lines 6-9.
[39] *See id.* at, for example, page 6, lines 15-16.
[40] *See id.* at, for example, Figures 2B, 6, 7, and 8.
[41] *See id.* at, for example, page 6, lines 16-18, page 7, lines 7-10.

refraining from causing the displaying of the idle state media through the set top box circuitry if user scheduled media is available.[42]

**Independent claim 29 recites the following:**

A system supporting media display sequencing,[43] the system comprising:

set top box circuitry[44] at a first[45] location communicatively coupled to a storage[46] at the first location to support consumption of idle state[47] media and user scheduled[48] media by a display device, wherein all of the idle state media and the user scheduled media is stored in the storage at the first location,[49] wherein all of the idle state media and the user scheduled media are scheduled based on time;[50] and

the set top box circuitry at the first location causing the displaying at the first location and a second location, from the storage at the first location, of idle state media when no user scheduled media is available.[51]

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[42] *See id.* at, for example, page 6, lines 18-20.
[43] *See id.* at, for example, page 4, lines 2-17.
[44] *See id.* at, for example, page 20, lines 8-20.
[45] *See id.* at, for example, page 11, lines 10-15, Figure 1, ref. 102.
[46] *See id.* at, for example, Figure 1, refs. 109 and 112.
[47] *See id.* at, for example, page 15, lines 12 to page 16, line 2.
[48] *See id.* at, for example, page 16, lines 6-9.
[49] *See id.* at, for example, page 4, line 4.
[50] *See id.* at, for example, Figures 2B, 6, 7, and 8.
[51] *See id.* at, for example, page 4, lines 6-10, page 4, line 20 to page 5, line 1.

## GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL (37 C.F.R. § 41.37(c)(1)(vi))

- Claims 1-6, 9-12, 14-17, 21-26, 28-32, 34, 37, and 38 stand rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. 6,601,237 ("Ten Kate") in view of U.S. 2002/0054752 ("Wood") and U.S. 2002/0166127 ("Hamano").
- Claims 7, 8, 18-20, 35, and 36 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Ten Kate in view of Wood, Hamano, and U.S. 2004/0261096 ("Matz").

## ARGUMENT
## (37 C.F.R. § 41.37(c)(1)(vii))

As shown above, all of the claims stand rejected as being obvious based on the combination of Ten Kate in view of Wood, and Hamano. The Applicants explain below, however, that the Office Action fails to establish a *prima facie* case of obviousness with respect to the pending claims for a variety of reasons.

In order for a *prima facie* case of obviousness to be established, the Manual of Patent Examining Procedure ("MPEP") states the following:

> The key to supporting any rejection under 35 U.S.C. 103 is the clear articulation of the reason(s) why the claimed invention would have been obvious. The Supreme Court in KSR International Co. v. Teleflex Inc., 82 USPQ2d 1385, 1396 (2007) noted that the analysis supporting a rejection under 35 U.S.C. 103 should be made explicit. The Federal Circuit has stated that "**rejections on obviousness cannot be sustained with mere conclusory statements**; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness."

*See* MPEP at § 2142, citing *In re Kahn*, 441 F.3d 977, 988, 78 U.S.P.Q.2d 1329, 1336 (Fed. Cir. 2006), and *KSR International Co. v. Teleflex Inc.*, 82 U.S.P.Q.2d at 1396 (quoting Federal Circuit statement with approval) (emphasis added).

Further, as specifically noted in the Manual of Patent Examining Procedure, "[t]o establish *prima facie* obviousness of a claimed invention, **all** the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974)." *See* MPEP at 2143.03 (emphasis added). Further, "'**[a]ll words in a claim must be considered** in judging the patentability of that claim against the prior art.' *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA)." *See id.* (emphasis added).

If a *prima facie* case of obviousness is not established, **the Applicants are under no obligation to submit evidence of nonobviousness**:

> The examiner bears the initial burden of factually supporting any *prima facie* conclusion of obviousness. **If the examiner does not produce a *prima facie* case, the applicant is under no obligation to submit evidence of nonobviousness.**

*See* MPEP at § 2142 (emphasis added).

Additionally, "[i]f the examiner is able to render a claim obvious simply by saying it is so, neither the Board nor [the Federal Circuit] is capable of reviewing that determination. ... If there is neither record evidence nor detailed examiner reasoning, the Board should not conclude that ... claims are obvious." *See In re Vaidyanathan*, Appeal 2009-1404 at pages 18-19 (Fed. Cir. May 19, 2010) (nonprecedential).

"[T]he Board cannot simply reach conclusions based on its own understanding or experience – or on its assessment of what would be basic knowledge or common sense. Rather, the Board must point to **some concrete evidence in the record in support of these findings**." *See In re Zurko*, 258 F.3d 1379, 1386 (Fed. Cir. 2001) (emphasis added).

With those principles in mind, the Applicants now turn to the claim rejections in particular.

## I. The Proposed Combination Of Ten Kate In View Of Wood And Hamano Does Not Render Claims 1-6, 9-12, 14-17, 21-26, 28-32, 34, 37, and 38 Unpatentable

The Applicants turn to the rejection of claims 1-6, 9-12, 14-17, 21-26, 28-32, 34, 37, and 38 as being unpatentable over Ten Kate in view of Wood and Hamano.

### A. Claim 1

Claim 1 recites, in part, "storage at the first location for storing all idle state media and all user scheduled media; a user interface for identifying particular media as one of the idle state media or the user scheduled media [stored at the first location], wherein the user scheduled media comprises selected media content stored at the first location, wherein the user interface is used to schedule the selected media content stored at the first location according to broadcast times, and wherein the user interface is used to choose when the idle state media is displayed; set top box circuitry at the first location communicatively coupled to the storage at the first location to support consumption of the idle state media and the user scheduled media by the television display according to selected and scheduled times."

#### 1. Identifying Media

The Office Action states the following:

> **Ten Kate** clearly teaches a system supporting media display sequencing, the system comprising:

> storage at the first location for storing all idle state media; **(Fig. 1: Video recorder 17 stores media to be used to fill the schedule gaps, column 4, lines 34-37 and column 6 lines 20-29.)**
>
> a user interface for identifying particular media as one of the idle state media or the user scheduled media, and wherein the user interface is used to choose when the idle state media is displayed; **A user selects programs to create a virtual channel, column 4 line 64 to column 5 line 3. The user selects default media to fill the gaps in the virtual channel schedule, column 5 line 66 to column 6 line 8)**

*See* April 27, 2010 Office Action at page 4 (emphasis in original).

Notably, the Office Action relies on **Ten Kate** as allegedly disclosing these limitations. However, the Applicants respectfully submit that the Office Action's reliance on Ten Kate as disclosing these limitations is misplaced, as explained below. Accordingly, a *prima facie* case of obviousness with respect to the pending claims has not been established.

In Ten Kate, the "virtual channel means are adapted to control the tuner to tune to a channel currently broadcasting a selected program. When a user selects the virtual channel, the apparatus takes care of automatically switching between the genuine channels broadcasting the programs viewed on the virtual channel." *See* Ten Kate at Abstract.

Thus, Ten Kate discloses a system in which a user identifies particular programs for a virtual channel. However, **these programs are shown on genuine channels**, but are not stored entirely at the user's location.[52] Moreover, the user does not schedule the times **of these programs**. Instead, the times are dictated by the "genuine channels." The "apparatus takes care of automatically switching between the genuine channels broadcasting the programs viewed on the virtual channel." *See id.* Thus, in Ten Kate, the user does not schedule **any** stored media according to a time schedule.

Ten Kate also discloses that "scheduling means are further adapted to record the second program, and reschedule it for the virtual channel to fill a gap before or after the programs

[52] The Office Action acknowledges that Ten Kate does not describe, teach, or suggest "storing all of the user scheduled media at the first location, wherein the user scheduled media includes selected stored media arranged according to broadcast times."

scheduled for the virtual channel." *See id.* at column 2, lines 36-40. Thus, in Ten Kate, the times for the virtual channel are essentially dictated by those set by the genuine channels. Portions of a second program may merely be recorded to fill in the gaps between times of programs broadcast by the genuine channels.

Ten Kate discloses that a "digital video recorder 17 is controlled by the CPU 5, and capable of storing and reproducing programs and DVB-SI data. It may be built in the television receive or be a separate device under control of the television receiver." *See* Ten Kate at column 4, lines 34-37. Further,

> The scheduler module 16 further maintains a database of information about the programs available on the video recorder 17, e.g. their title, duration and program category. If a gap is encountered in the schedule of the virtual channel, **the scheduler module 16 searches the database for recorded programs having a length which is substantially equally to the length of the gap**. If such programs are found [by the scheduler module 16], one of them is scheduled for the virtual channel to fill the gap. Alternatively, various shorter recorded programs are combined to fill the gap, or a longer recorded program is split in several parts, each filling a different gap in the schedule of the virtual channel, e.g., before and after a new bulletin.

*See id.* at column 6, lines 20-29 (emphasis added). Notably, Ten Kate is clear that the scheduler module 16, **not a user**, searches for and selects a recorded program having a length that is substantially the same as a gap.

Ten Kate does not describe, teach, or suggest "a user interface for identifying particular media as one of the idle state media, wherein the user interface is used to choose when the idle state media is displayed" as recited in claim 1.

The Applicants respectfully submit that, **contrary to the express reasoning in the Office Action**. Ten Kate does not describe, teach, or suggest "a **user interface** for identifying particular media as **one of the idle state media or the user scheduled media [stored at the first location]**, ... wherein the **user interface is used to choose when the idle state media is displayed,**" as recited in claim 1.

Accordingly, the Applicants respectfully submit that the Office Action's reasoning is misplaced, and therefore, a *prima facie* case of unpatentability has not been established. The

Office Action has not demonstrated that any of the cited references describes, teaches, or suggests all of the limitations noted above. Thus, for at least these reasons, the Applicants respectfully request reconsideration of the claim rejections.

**2. Displaying At First And Second Locations**

Additionally, claim 1 recites, in part, "**displaying, from the storage at the first location**, of idle state media when no user scheduled media is available on the television display **at the first location and the at least one display device at the second location**." The claim is clear that the idle state media stored at the first location is displayed at first **and** second locations.

The Office Action acknowledges that Ten Kate combined with Wood does not describe, teach or suggest idle state media stored at a first location being displayed at the first location and the second location. *See* April 27, 2010 Office Action at page 4. In an attempt to overcome this deficiency, the Office Action relies on Hamano. *See id.* at page 4.

Hamano, however, only discloses advertisements displayed on a remote display. *See* Hamano at [0037]. In particular, Hamano discloses a set top box that "transmits the advertising information that has been targeted to the user to the remote display terminal via wireless transmission." *See id.* at [0044]. Similar to Ten Kate and Wood, however, Hamano does not describe, teach or suggest displaying information stored at a first location on a display at the first location **and** a display at the second location. Instead, similar to Ten Kate and Wood, Hamano only discloses display at one location.

**None of Ten Kate, Wood or Hamano** describes, teaches or suggests "the set top box circuitry at the first location causing the displaying, from the storage at the first location, of idle state media when no user scheduled media is available on the television display at the first location **and the at least one display device at the second location**," as recited in claim 1. Because none of these references describes, teaches, or suggests this limitation, the combination

of all three cannot, by definition, describe, teach, or suggest it.[53] Thus, for at least these reasons, the proposed combination does not render the claims unpatentable.

**3. Storing All Idle State Media**

As noted above, claim 1 also recites, in part, "storage at the first location for storing **all idle state media and all user scheduled media [that is displayed at both the first and second locations]**." The Office Action has not shown that any of the cited references describes, teaches, or suggests a storage at one location for storing **all idle state media and all user scheduled media [that is displayed at both the first and second locations]**," as recited in claim 1. Thus, for at least these additional reasons, the Applicants respectfully submit that the Office Action has not established a *prima facie* case of obviousness with respect to claim 1 and the claims that depend therefrom.

**4. Obviousness Guidelines**

Additionally, referring to the PTO's published guidelines of October 10, 2007, with regard to the procedure to be followed by Examiners when making an obviousness rejection, the guidelines recite **seven rationales** supporting an obviousness rejection and give specific findings that **must be made** by an Examiner in order for the Examiner to use the rationale to support a finding of obviousness. These findings are **not optional and must be articulated by the Examiner for the rationale to apply.** The seven rationales are listed below.

> (A) Combining prior art elements according to known methods to yield predictable results;
>
> (B) Simple substitution of one known element for another to obtain predictable results;
>
> (C) Use of known technique to improve similar devices (methods, or products) in the same way;
>
> (D) Applying a known technique to a known device (method, or product) ready for improvement to yield predictable results;

[53] The Applicants are aware that "one cannot show nonobviousness by attacking the references individually," but if none of the references discloses a limitation, aggregating those references together cannot possibly make the limitation, which is not found in any of the references, somehow appear. For example, if references A, B, and C are silent with respect to element X, then A+B+C cannot somehow yield element X.

> (E) "Obvious to try"—choosing from a finite number of identified, predictable solutions, with a reasonable expectation of success;
>
> (F) Known work in one field of endeavor may prompt variations of it for use in either the same field or a different one based on design incentives or other market forces if the variations would have been predictable to one of ordinary skill in the art;
>
> (G) Some teaching, suggestion, or motivation in the prior art that would have led one of ordinary skill to modify the prior art reference or to combine prior art reference teachings to arrive at the claimed invention.

MPEP at § 2141.

If the current rejection is maintained, the Applicants respectfully request that the Examiner's Answer: 1) **identify the specific Rationale** (i.e., by specifically indicating one of **A through G** noted above) in the Guidelines that the Examiner is using to support the obviousness rejection so that the Applicants may more clearly address the Examiner's concerns, and 2) **state on the record** the **required** factual findings to support the Rationale that the Examiner has chosen.[54] Failure to specifically identify the specific rationale and state the required factual findings will seemingly be a tacit admission that the Examiner is unable to satisfy the **required** factual findings.

"It is important for Office personnel to recognize that when they do choose to formulate an obviousness rejection using one of the rationales suggested by the Supreme Court in KSR and discussed in the 2007 KSR Guidelines, they are to adhere to the instructions provided in the MPEP regarding the **necessary** factual findings." *See* September 1, 2010 Examination Guidelines Update (emphasis added).

Further, it is "Office policy that appropriate factual findings are **required** in order to apply the enumerated rationales properly. If a rejection has been made that omits one of the required factual findings, and in response to the rejection a practitioner or inventor points out the

[54] Indeed, the Applicants respectfully request such an explicit analysis and associated factual findings for each and every rejection under 35 U.S.C. § 103 of any of the pending claims, as required by current PTO practice.

omission, Office personnel **must** either withdraw the rejection, or repeat the rejection including all the required factual findings." *See id.* (emphasis added).

Again, it is not enough to simply conclude that a claim is obvious while acknowledging that the cited references fail to disclose particular limitations. *See In re Vaidyanathan*, at pages 18-19. "[T]he Board cannot simply reach conclusions based on its own understanding or experience – or on its assessment of what would be basic knowledge or common sense. Rather, the Board must point to **some concrete evidence in the record in support of these findings**." *See In re Zurko*, 258 F.3d 1379, 1386 (Fed. Cir. 2001) (emphasis added).

As explained above, the Office Action fails to provide any "concrete evidence" that describes, teaches, or suggests all of the limitations of claim 1, as explained above. For at least these additional reasons, the Applicants respectfully submit that the Office Action fails to establish a *prima facie* case of unpatentability with respect to claim 1 and the claims depending therefrom.

**B. Independent Claim 10**

Claim 10 recites, in part, "selecting particular user stored media as one of idle state media or user scheduled media based upon input from a user at a first location, ... storing all of the idle state media and all of the user scheduled media at the first location; causing the displaying of the idle state media through set top box circuitry at the first location and a second location according to a user defined sequence, if no user scheduled media is available...."

**1. Selecting Media**

The Office Action states the following:

> **Ten Kate** clearly teaches a method of operating a system supporting user captured media display sequencing, comprising:
>
> selecting particular user stored media as one of idle state media or user scheduled media based upon input from a user at a first location; **(A user selects programs to create a virtual channel, column 4 line 64 to column 5 line 3. The user selects default media to fill the gaps in the virtual channel schedule, column 5 line 66 to column 6 line 8)**

*See* April 27, 2010 Office Action at page 5 (emphasis in original).

Notably, the Office Action relies on **Ten Kate** as allegedly disclosing these limitations. However, the Applicants respectfully submit that the Office Action's reliance on Ten Kate as disclosing these limitations is misplaced, as explained below. Accordingly, a *prima facie* case of obviousness with respect to the pending claims has not been established.

In Ten Kate, the "virtual channel means are adapted to control the tuner to tune to a channel currently broadcasting a selected program. When a user selects the virtual channel, the apparatus takes care of automatically switching between the genuine channels broadcasting the programs viewed on the virtual channel." *See* Ten Kate at Abstract.

Thus, Ten Kate discloses a system in which a user identifies particular programs for a virtual channel. However, **these programs are shown on genuine channels**, but are not stored entirely at the user's location.[55] Moreover, the user does not schedule the times of **these programs**. Instead, the times are dictated by the "genuine channels." The "apparatus takes care of automatically switching between the genuine channels broadcasting the programs viewed on the virtual channel." *See id.* Thus, in Ten Kate, the user does not schedule **any** stored media according to a time schedule.

Ten Kate also discloses that "scheduling means are further adapted to record the second program, and reschedule it for the virtual channel to fill a gap before or after the programs scheduled for the virtual channel." *See id.* at column 2, lines 36-40. Thus, in Ten Kate, the times for the virtual channel are essentially dictated by those set by the genuine channels. Portions of a second program may merely be recorded to fill in the gaps between times of programs broadcast by the genuine channels.

Ten Kate discloses that a "digital video recorder 17 is controlled by the CPU 5, and capable of storing and reproducing programs and DVB-SI data. It may be built in the television receive or be a separate device under control of the television receiver." *See* Ten Kate at column 4, lines 34-37. Further,

> The scheduler module 16 further maintains a database of information about the programs available on the video recorder 17,

[55] The Office Action acknowledges that Ten Kate does not describe, teach, or suggest "storing all of the user scheduled media at the first location, wherein the user scheduled media includes selected stored media arranged according to broadcast times."

> e.g. their title, duration and program category. If a gap is encountered in the schedule of the virtual channel, **the scheduler module 16 searches the database for recorded programs having a length which is substantially equally to the length of the gap**. If such programs are found [by the scheduler module 16], one of them is scheduled for the virtual channel to fill the gap. Alternatively, various shorter recorded programs are combined to fill the gap, or a longer recorded program is split in several parts, each filling a different gap in the schedule of the virtual channel, e.g., before and after a new bulletin.

*See id.* at column 6, lines 20-29 (emphasis added). Notably, Ten Kate is clear that the scheduler module 16, **not a user**, searches for and selects a recorded program having a length that is substantially the same as a gap.

Ten Kate does not describe, teach, or suggest "selecting particular user stored media as one of idle state media or user scheduled media based upon input from a user at a first location" as recited in claim 10.

The Applicants respectfully submit that, **contrary to the express reasoning in the Office Action**, Ten Kate does not describe, teach, or suggest "**selecting particular user stored media as one of idle state media** or user scheduled media **based upon input from a user at a first location,**" as recited in claim 10.

Accordingly, the Applicants respectfully submit that the Office Action's reasoning is misplaced, and therefore, a *prima facie* case of unpatentability has not been established. The Office Action has not demonstrated that any of the cited references describes, teaches, or suggests all of the limitations noted above. Thus, for at least these reasons, the Applicants respectfully request reconsideration of the claim rejections.

**2. Displaying At First And Second Locations**

Additionally, claim 10 recites, in part, "causing the displaying of the idle state media through set top box circuitry **at the first location and a second location** according to a user defined sequence, if no user scheduled media is available." The claim is clear that the idle state media at the first location is caused to be displayed at first **and** second locations.

The Office Action acknowledges that Ten Kate combined with Wood does not describe, teach or suggest idle state media at a first location being displayed at the first location and the

second location. *See* April 27, 2010 Office Action at page 6. In an attempt to overcome this deficiency, the Office Action relies on Hamano. *See id.* at page 6.

Hamano, however, only discloses advertisements displayed on a remote display. *See* Hamano at [0037]. In particular, Hamano discloses a set top box that "transmits the advertising information that has been targeted to the user to the remote display terminal via wireless transmission." *See id.* at [0044]. Similar to Ten Kate and Wood, however, Hamano does not describe, teach or suggest displaying information stored at a first location on a display at the first location **and** a display at the second location. Instead, similar to Ten Kate and Wood, Hamano only discloses display at one location.

**None of Ten Kate, Wood or Hamano** describes, teaches or suggests "causing the displaying of the idle state media through set top box circuitry **at the first location and a second location** according to a user defined sequence, if no user scheduled media is available," as recited in claim 10. Because none of these references describes, teaches, or suggests this limitation, the combination of all three cannot, by definition, describe, teach, or suggest it. Thus, for at least these reasons, the proposed combination does not render the claims unpatentable.

**3. Storing All Idle State Media**

As noted above, claim 10 also recites, in part, "storing **all of the idle state media and all of the user scheduled media** at the first location **[that is displayed at both the first and second locations]**." The Office Action has not shown that any of the cited references describes, teaches, or suggests all of these limitations of claim 10. Thus, for at least these additional reasons, the Applicants respectfully submit that the Office Action has not established a *prima facie* case of obviousness with respect to claim 10 and the claims that depend therefrom.

**4. Obviousness Guidelines**

Additionally, referring to the PTO's published guidelines of October 10, 2007, with regard to the procedure to be followed by Examiners when making an obviousness rejection, the guidelines recite **seven rationales** supporting an obviousness rejection and give specific findings that **must be made** by an Examiner in order for the Examiner to use the rationale to support a finding of obviousness. These findings are **not optional and must be articulated by the Examiner for the rationale to apply.** The seven rationales are listed below.

> (A) Combining prior art elements according to known methods to yield predictable results;
>
> (B) Simple substitution of one known element for another to obtain predictable results;
>
> (C) Use of known technique to improve similar devices (methods, or products) in the same way;
>
> (D) Applying a known technique to a known device (method, or product) ready for improvement to yield predictable results;
>
> (E) "Obvious to try"—choosing from a finite number of identified, predictable solutions, with a reasonable expectation of success;
>
> (F) Known work in one field of endeavor may prompt variations of it for use in either the same field or a different one based on design incentives or other market forces if the variations would have been predictable to one of ordinary skill in the art;
>
> (G) Some teaching, suggestion, or motivation in the prior art that would have led one of ordinary skill to modify the prior art reference or to combine prior art reference teachings to arrive at the claimed invention.

MPEP at § 2141.

If the current rejection is maintained, the Applicants respectfully request that the Examiner's Answer: 1) **identify the specific Rationale** (i.e., by specifically indicating one of **A through G** noted above) in the Guidelines that the Examiner is using to support the obviousness rejection so that the Applicants may more clearly address the Examiner's concerns, and 2) **state on the record** the **required** factual findings to support the Rationale that the Examiner has chosen.[56] Failure to specifically identify the specific rationale and state the required factual findings will seemingly be a tacit admission that the Examiner is unable to satisfy the **required** factual findings.

[56] Indeed, the Applicants respectfully request such an explicit analysis and associated factual findings for each and every rejection under 35 U.S.C. § 103 of any of the pending claims, as required by current PTO practice.

"It is important for Office personnel to recognize that when they do choose to formulate an obviousness rejection using one of the rationales suggested by the Supreme Court in KSR and discussed in the 2007 KSR Guidelines, they are to adhere to the instructions provided in the MPEP regarding the **necessary** factual findings." *See* September 1, 2010 Examination Guidelines Update (emphasis added).

Further, it is "Office policy that appropriate factual findings are **required** in order to apply the enumerated rationales properly. If a rejection has been made that omits one of the required factual findings, and in response to the rejection a practitioner or inventor points out the omission, Office personnel **must** either withdraw the rejection, or repeat the rejection including all the required factual findings." *See id.* (emphasis added).

Again, it is not enough to simply conclude that a claim is obvious while acknowledging that the cited references fail to disclose particular limitations. *See In re Vaidyanathan*, at pages 18-19. "[T]he Board cannot simply reach conclusions based on its own understanding or experience – or on its assessment of what would be basic knowledge or common sense. Rather, the Board must point to **some concrete evidence in the record in support of these findings**." *See In re Zurko*, 258 F.3d 1379, 1386 (Fed. Cir. 2001) (emphasis added).

As explained above, the Office Action fails to provide any "concrete evidence" that describes, teaches, or suggests all of the limitations of claim 10, as explained above. For at least these additional reasons, the Applicants respectfully submit that the Office Action fails to establish a *prima facie* case of unpatentability with respect to claim 10 and the claims depending therefrom.

**C. Independent Claim 21**

Claim 21 recites, in part, "storing all of the media at the first location; selecting the media stored at the first location as idle state media or user scheduled media based upon input from a user, ...; causing the displaying of the idle state media through set top box circuitry at the first location and a second location according to a user defined sequence, when no user scheduled media is available...."

**1. Selecting Media**

The Office Action states the following:

> **Ten Kate** clearly teaches a method of operating a system supporting user captured media display sequencing, comprising: …
>
> selecting the media stored at the first location as idle state media or user scheduled media based upon input from a user; (**A user selects programs to create a virtual channel, column 4 line 64 to column 5 line 3. The user selects default media to fill the gaps in the virtual channel schedule, column 5 line 66 to column 6 line 8**)

*See* April 27, 2010 Office Action at pages 6-7 (emphasis in original).

Notably, the Office Action relies on **Ten Kate** as allegedly disclosing these limitations. However, the Applicants respectfully submit that the Office Action's reliance on Ten Kate as disclosing these limitations is misplaced, as explained below. Accordingly, a *prima facie* case of obviousness with respect to the pending claims has not been established.

In Ten Kate, the "virtual channel means are adapted to control the tuner to tune to a channel currently broadcasting a selected program. When a user selects the virtual channel, the apparatus takes care of automatically switching between the genuine channels broadcasting the programs viewed on the virtual channel." *See* Ten Kate at Abstract.

Thus, Ten Kate discloses a system in which a user identifies particular programs for a virtual channel. However, **these programs are shown on genuine channels**, but are not stored entirely at the user's location.[57] Moreover, the user does not schedule the times of **these programs**. Instead, the times are dictated by the "genuine channels." The "apparatus takes care of automatically switching between the genuine channels broadcasting the programs viewed on the virtual channel." *See id.* Thus, in Ten Kate, the user does not schedule **any** stored media according to a time schedule.

Ten Kate also discloses that "scheduling means are further adapted to record the second program, and reschedule it for the virtual channel to fill a gap before or after the programs scheduled for the virtual channel." *See id.* at column 2, lines 36-40. Thus, in Ten Kate, the times for the virtual channel are essentially dictated by those set by the genuine channels. Portions of a

[57] The Office Action acknowledges that Ten Kate does not describe, teach, or suggest "storing all of the user scheduled media at the first location, wherein the user scheduled media includes selected stored media arranged according to broadcast times."

second program may merely be recorded to fill in the gaps between times of programs broadcast by the genuine channels.

Ten Kate discloses that a "digital video recorder 17 is controlled by the CPU 5, and capable of storing and reproducing programs and DVB-SI data. It may be built in the television receiver or be a separate device under control of the television receiver." *See* Ten Kate at column 4, lines 34-37. Further,

> The scheduler module 16 further maintains a database of information about the programs available on the video recorder 17, e.g. their title, duration and program category. If a gap is encountered in the schedule of the virtual channel, **the scheduler module 16 searches the database for recorded programs having a length which is substantially equally to the length of the gap**. If such programs are found [by the scheduler module 16], one of them is scheduled for the virtual channel to fill the gap. Alternatively, various shorter recorded programs are combined to fill the gap, or a longer recorded program is split in several parts, each filling a different gap in the schedule of the virtual channel, e.g., before and after a new bulletin.

*See id.* at column 6, lines 20-29 (emphasis added). Notably, Ten Kate is clear that the scheduler module 16, **not a user**, searches for and selects a recorded program having a length that is substantially the same as a gap.

Ten Kate does not describe, teach, or suggest "selecting the media stored at the first location as idle state media or user scheduled media based upon input from a user" as recited in claim 21.

The Applicants respectfully submit that, **contrary to the express reasoning in the Office Action**, Ten Kate does not describe, teach, or suggest "selecting the media stored at the first location as idle state media or user scheduled media based upon input from a user," as recited in claim 21.

Accordingly, the Applicants respectfully submit that the Office Action's reasoning is misplaced, and therefore, a *prima facie* case of unpatentability has not been established. The Office Action has not demonstrated that any of the cited references describes, teaches, or suggests all of the limitations noted above. Thus, for at least these reasons, the Applicants respectfully request reconsideration of the claim rejections.

**2. Displaying At First And Second Locations**

Additionally, claim 21 recites, in part, "causing the displaying of the idle state media through set top box circuitry at the first location and a second location according to a user defined sequence, when no user scheduled media is available." The claim is clear that the idle state media at the first location is caused to be displayed at first **and** second locations.

The Office Action acknowledges that Ten Kate combined with Wood does not describe, teach or suggest idle state media at a first location being displayed at the first location and the second location. *See* April 27, 2010 Office Action at page 7. In an attempt to overcome this deficiency, the Office Action relies on Hamano. *See id.* at page 8.

Hamano, however, only discloses advertisements displayed on a remote display. *See* Hamano at [0037]. In particular, Hamano discloses a set top box that "transmits the advertising information that has been targeted to the user to the remote display terminal via wireless transmission." *See id.* at [0044]. Similar to Ten Kate and Wood, however, Hamano does not describe, teach or suggest displaying information stored at a first location on a display at the first location **and** a display at the second location. Instead, similar to Ten Kate and Wood, Hamano only discloses display at one location.

**None of Ten Kate, Wood or Hamano** describes, teaches or suggests "causing the displaying of the idle state media through set top box circuitry at the first location and a second location according to a user defined sequence, when no user scheduled media is available," as recited in claim 21. Because none of these references describes, teaches, or suggests this limitation, the combination of all three cannot, by definition, describe, teach, or suggest it. Thus, for at least these reasons, the proposed combination does not render the claims unpatentable.

**3. Storing All Idle State Media**

As noted above, claim 21 also recites, in part, "storing all of the media at the first location **[that is displayed at both the first and second locations]**." The Office Action has not shown that any of the cited references describes, teaches, or suggests all of these limitations of claim 21. Thus, for at least these additional reasons, the Applicants respectfully submit that the Office Action has not established a *prima facie* case of obviousness with respect to claim 21 and the claims that depend therefrom.

**4. Obviousness Guidelines**

Additionally, referring to the PTO's published guidelines of October 10, 2007, with regard to the procedure to be followed by Examiners when making an obviousness rejection, the guidelines recite **seven rationales** supporting an obviousness rejection and give specific findings that **must be made** by an Examiner in order for the Examiner to use the rationale to support a finding of obviousness. These findings are **not optional and must be articulated by the Examiner for the rationale to apply.** The seven rationales are listed below.

> (A) Combining prior art elements according to known methods to yield predictable results;
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> (B) Simple substitution of one known element for another to obtain predictable results;
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> (C) Use of known technique to improve similar devices (methods, or products) in the same way;
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> (D) Applying a known technique to a known device (method, or product) ready for improvement to yield predictable results;
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> (E) "Obvious to try"—choosing from a finite number of identified, predictable solutions, with a reasonable expectation of success;
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> (F) Known work in one field of endeavor may prompt variations of it for use in either the same field or a different one based on design incentives or other market forces if the variations would have been predictable to one of ordinary skill in the art;
>
> (G) Some teaching, suggestion, or motivation in the prior art that would have led one of ordinary skill to modify the prior art reference or to combine prior art reference teachings to arrive at the claimed invention.

MPEP at § 2141.

If the current rejection is maintained, the Applicants respectfully request that the Examiner's Answer: 1) **identify the specific Rationale** (i.e., by specifically indicating one of **A through G** noted above) in the Guidelines that the Examiner is using to support the obviousness rejection so that the Applicants may more clearly address the Examiner's concerns, and 2) **state on the record** the **required** factual findings to support the Rationale that the Examiner has

chosen.[58] Failure to specifically identify the specific rationale and state the required factual findings will seemingly be a tacit admission that the Examiner is unable to satisfy the **required** factual findings.

"It is important for Office personnel to recognize that when they do choose to formulate an obviousness rejection using one of the rationales suggested by the Supreme Court in KSR and discussed in the 2007 KSR Guidelines, they are to adhere to the instructions provided in the MPEP regarding the **necessary** factual findings." *See* September 1, 2010 Examination Guidelines Update (emphasis added).

Further, it is "Office policy that appropriate factual findings are **required** in order to apply the enumerated rationales properly. If a rejection has been made that omits one of the required factual findings, and in response to the rejection a practitioner or inventor points out the omission, Office personnel **must** either withdraw the rejection, or repeat the rejection including all the required factual findings." *See id.* (emphasis added).

Again, it is not enough to simply conclude that a claim is obvious while acknowledging that the cited references fail to disclose particular limitations. *See In re Vaidyanathan*, at pages 18-19. "[T]he Board cannot simply reach conclusions based on its own understanding or experience – or on its assessment of what would be basic knowledge or common sense. Rather, the Board must point to **some concrete evidence in the record in support of these findings**." *See In re Zurko*, 258 F.3d 1379, 1386 (Fed. Cir. 2001) (emphasis added).

As explained above, the Office Action fails to provide any "concrete evidence" that describes, teaches, or suggests all of the limitations of claim 21, as explained above. For at least these additional reasons, the Applicants respectfully submit that the Office Action fails to establish a *prima facie* case of unpatentability with respect to claim 21 and the claims depending therefrom.

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[58] Indeed, the Applicants respectfully request such an explicit analysis and associated factual findings for each and every rejection under 35 U.S.C. § 103 of any of the pending claims, as required by current PTO practice.

**D. Independent Claim 29**

Claim 29 recites, in part, "wherein all of the idle state media and the user scheduled media is stored in the storage at the first location, ... and the set top box circuitry at the first location causing the displaying at the first location and a second location, from the storage at the first location, of idle state media when no user scheduled media is available."

**1. Displaying At First And Second Locations**

Claim 29 recites, in part, "causing the displaying at the first location and a second location, from the storage at the first location, of idle state media when no user scheduled media is available." The claim is clear that the idle state media at the first location is caused to be displayed at first **and** second locations.

The Office Action acknowledges that Ten Kate combined with Wood does not describe, teach or suggest idle state media at a first location being displayed at the first location and the second location. *See* April 27, 2010 Office Action at page 9. In an attempt to overcome this deficiency, the Office Action relies on Hamano. *See id.* at page 9.

Hamano, however, only discloses advertisements displayed on a remote display. *See* Hamano at [0037]. In particular, Hamano discloses a set top box that "transmits the advertising information that has been targeted to the user to the remote display terminal via wireless transmission." *See id.* at [0044]. Similar to Ten Kate and Wood, however, Hamano does not describe, teach or suggest displaying information stored at a first location on a display at the first location **and** a display at the second location. Instead, similar to Ten Kate and Wood, Hamano only discloses display at one location.

**None of Ten Kate, Wood or Hamano** describes, teaches or suggests "causing the displaying at the first location and a second location, from the storage at the first location, of idle state media when no user scheduled media is available," as recited in claim 29. Because none of these references describes, teaches, or suggests this limitation, the combination of all three cannot, by definition, describe, teach, or suggest it. Thus, for at least these reasons, the proposed combination does not render the claims unpatentable.

**2. Storing All Idle State Media**

As noted above, claim 29 also recites, in part, "wherein all of the idle state media and the user scheduled media [that is displayed at both the first and second locations] is stored in the storage at the first location storing." The Office Action has not shown that any of the cited references describes, teaches, or suggests all of these limitations of claim 29. Thus, for at least these additional reasons, the Applicants respectfully submit that the Office Action has not established a *prima facie* case of obviousness with respect to claim 29 and the claims that depend therefrom.

**3. Obviousness Guidelines**

Additionally, referring to the PTO's published guidelines of October 10, 2007, with regard to the procedure to be followed by Examiners when making an obviousness rejection, the guidelines recite **seven rationales** supporting an obviousness rejection and give specific findings that **must be made** by an Examiner in order for the Examiner to use the rationale to support a finding of obviousness. These findings are **not optional and must be articulated by the Examiner for the rationale to apply.** The seven rationales are listed below.

> (A) Combining prior art elements according to known methods to yield predictable results;
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> (B) Simple substitution of one known element for another to obtain predictable results;
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> (C) Use of known technique to improve similar devices (methods, or products) in the same way;
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> (D) Applying a known technique to a known device (method, or product) ready for improvement to yield predictable results;
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> (E) "Obvious to try"—choosing from a finite number of identified, predictable solutions, with a reasonable expectation of success;
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> (F) Known work in one field of endeavor may prompt variations of it for use in either the same field or a different one based on design incentives or other market forces if the variations would have been predictable to one of ordinary skill in the art;

> (G) Some teaching, suggestion, or motivation in the prior art that would have led one of ordinary skill to modify the prior art reference or to combine prior art reference teachings to arrive at the claimed invention.

MPEP at § 2141.

If the current rejection is maintained, the Applicants respectfully request that the Examiner's Answer: 1) **identify the specific Rationale** (i.e., by specifically indicating one of **A through G** noted above) in the Guidelines that the Examiner is using to support the obviousness rejection so that the Applicants may more clearly address the Examiner's concerns, and 2) **state on the record** the **required** factual findings to support the Rationale that the Examiner has chosen.[59] Failure to specifically identify the specific rationale and state the required factual findings will seemingly be a tacit admission that the Examiner is unable to satisfy the **required** factual findings.

"It is important for Office personnel to recognize that when they do choose to formulate an obviousness rejection using one of the rationales suggested by the Supreme Court in KSR and discussed in the 2007 KSR Guidelines, they are to adhere to the instructions provided in the MPEP regarding the **necessary** factual findings." *See* September 1, 2010 Examination Guidelines Update (emphasis added).

Further, it is "Office policy that appropriate factual findings are **required** in order to apply the enumerated rationales properly. If a rejection has been made that omits one of the required factual findings, and in response to the rejection a practitioner or inventor points out the omission, Office personnel **must** either withdraw the rejection, or repeat the rejection including all the required factual findings." *See id.* (emphasis added).

Again, it is not enough to simply conclude that a claim is obvious while acknowledging that the cited references fail to disclose particular limitations. *See In re Vaidyanathan*, at pages 18-19. "[T]he Board cannot simply reach conclusions based on its own understanding or experience – or on its assessment of what would be basic knowledge or common sense. Rather,

[59] Indeed, the Applicants respectfully request such an explicit analysis and associated factual findings for each and every rejection under 35 U.S.C. § 103 of any of the pending claims, as required by current PTO practice.

the Board must point to **some concrete evidence in the record in support of these findings**." *See In re Zurko*, 258 F.3d 1379, 1386 (Fed. Cir. 2001) (emphasis added).

As explained above, the Office Action fails to provide any "concrete evidence" that describes, teaches, or suggests all of the limitations of claim 29, as explained above. For at least these additional reasons, the Applicants respectfully submit that the Office Action fails to establish a *prima facie* case of unpatentability with respect to claim 29 and the claims depending therefrom.

## II. The Proposed Combination Of Ten Kate, In View Of Wood, Hamano, And Matz Does Not Render Claims 7, 8, 18-20, 35, and 36 Unpatentable

The Applicants respectfully submit that the proposed combination does not render claims 7, 8, 18-20, 35, and 36 unpatentable for at least the reasons discussed above with respect to independent claims 1, 10, 21, and 29.

## III. CONCLUSION

For at least the reasons discussed above, the Applicants respectfully submit that the pending claims are allowable. Therefore, the Board is respectfully requested to reverse the rejections of pending claims 1-12, 14-26, 28-32, and 34-39.

## IV. PAYMENT OF FEES

The Commissioner is authorized to charge any necessary fees, including the $490 fee for the two-month extension and the $540 fee for this Appeal Brief, or credit any overpayment to Deposit Account 13-0017.

Respectfully submitted,

Dated: December 14, 2010

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## CLAIMS APPENDIX
## (37 C.F.R. § 41.37(c)(1)(viii))

1. A system supporting media display sequencing, the system comprising:

a television display at a first location;

at least one display device at a second location that is separate and distinct from the first location;

storage at the first location for storing all idle state media and all user scheduled media;

a user interface for identifying particular media as one of the idle state media or the user scheduled media, wherein the user scheduled media comprises selected media content stored at the first location, wherein the user interface is used to schedule the selected media content stored at the first location according to broadcast times, and wherein the user interface is used to choose when the idle state media is displayed;

set top box circuitry at the first location communicatively coupled to the storage at the first location to support consumption of the idle state media and the user scheduled media by the television display according to selected and scheduled times; and

the set top box circuitry at the first location causing the displaying, from the storage at the first location, of idle state media when no user scheduled media is available on the television display at the first location and the at least one display device at the second location.

2. The system of claim 1 wherein the identified media comprises one or more of audio, a still image, video, and/or data.

3. The system of claim 1 further comprising:

a packet network interface communicatively coupled to the set top box circuitry.

4. The system of claim 3 wherein the packet network interface is compatible with one or more of a cable infrastructure, a satellite network infrastructure, a digital subscriber line (DSL) infrastructure, an Internet infrastructure, an intranet infrastructure, a wired infrastructure, and/or a wireless infrastructure.

5. The system of claim 1 wherein the at least one display device at the second location is communicatively coupled to the set top box circuitry.

6. The system of claim 5 wherein the at least one display device is one of a plasma display, a liquid crystal display, or a TV screen.

7. The system of claim 1 further comprising at least one media capture device communicatively coupled to the storage.

8. The system of claim 7 wherein the at least one media capture device comprises one or more of a digital camera, a digital camcorder, a DVD player, and/or a CD player.

9. The system of claim 1 wherein the identified media is pushed to the system.

10. A method of operating a system supporting user captured media display sequencing, the method comprising:

selecting particular user stored media as one of idle state media or user scheduled media based upon input from a user at a first location, wherein the user scheduled media includes selected stored media arranged according to times;

storing all of the idle state media and all of the user scheduled media at the first location;

causing the displaying of the idle state media through set top box circuitry at the first location and a second location according to a user defined sequence, if no user scheduled media is available; and

refraining from causing the displaying of the idle state media through the set top box circuitry if user scheduled media is available.

11. The method of claim 10 wherein the identifying is performed using one or more of a set top box, a personal computer, and/or a television.

12. The method of claim 10 wherein the identified media comprises one or more of audio, a still image, video, and/or data.

14. The method of claim 10 wherein the displaying comprises one or more of playing audio, displaying a still image, displaying video, and/or displaying data.

15. The method of claim 10 wherein the method further comprises:

receiving media from a second location.

16. The method of claim 15 wherein the receiving is performed using a packet network.

17. The method of claim 16 wherein the packet network comprises one or more of a cable infrastructure, a satellite network infrastructure, a digital subscriber line (DSL) infrastructure, an Internet infrastructure, an intranet infrastructure, a wired infrastructure, and/or a wireless infrastructure.

18. The method of claim 16 wherein the packet network is the Internet.

19. The method of claim 15 wherein the second location is a server.

20. The method of claim 19 wherein the server comprises one or more of a 3rd party media provider, a 3rd party service provider, a network server, and/or a broadband head end.

21. A method of operating a system supporting user captured media display sequencing, the method comprising:

receiving media at a first location;

storing all of the media at the first location;

selecting the media stored at the first location as idle state media or user scheduled media based upon input from a user, wherein the user scheduled media is scheduled based on broadcasting time;

causing the displaying of the idle state media through set top box circuitry at the first location and a second location according to a user defined sequence, when no user scheduled media is available; and

refraining from causing the displaying of the idle state media through the set top box circuitry if user scheduled media is available.

22. The method of claim 21 wherein the idle state media resides on local storage.

23. The method of claim 21 wherein the user scheduled media resides on one or more of local storage, a 3rd party media provider, a 3rd party service provider, a network server, and/or a broadband head end.

24. The method of claim 21 wherein the receiving uses one or more of a cable infrastructure, a satellite network infrastructure, a digital subscriber line (DSL) infrastructure, an Internet infrastructure, an intranet infrastructure, a wired infrastructure, and/or a wireless infrastructure.

25. The method of claim 21 wherein the identified media comprises one or more of audio, a still image, video, and/or data.

26. The method of claim 21 wherein the displaying comprises one or more of playing audio, displaying a still image, playing video, and/or displaying data.

28. The method of claim 21 wherein the method further comprises causing, immediately, the displaying of the idle state media based upon user input.

29. A system supporting media display sequencing, the system comprising:

set top box circuitry at a first location communicatively coupled to a storage at the first location to support consumption of idle state media and user scheduled media by a display device, wherein all of the idle state media and the user scheduled media is stored in the storage at the first location, wherein all of the idle state media and the user scheduled media are scheduled based on time; and

the set top box circuitry at the first location causing the displaying at the first location and a second location, from the storage at the first location, of idle state media when no user scheduled media is available.

30. The system of claim 29 wherein the identified media comprises one or more of audio, a still image, video, and/or data.

31. The system of claim 29 further comprising:

a packet network interface communicatively coupled to the set top box circuitry.

32. The system of claim 31 wherein the packet network interface is compatible with one or more of a cable infrastructure, a satellite network infrastructure, a digital subscriber line (DSL) infrastructure, an Internet infrastructure, an intranet infrastructure, a wired infrastructure, and/or a wireless infrastructure.

34. The system of claim 29 wherein the at least one display device at a second location is one of a plasma display, a liquid crystal display, or a TV screen.

35. The system of claim 29 further comprising at least one media capture device communicatively coupled to the storage.

36. The system of claim 35 wherein the at least one media capture device comprises one or more of a digital camera, a digital camcorder, a DVD player, and/or a CD player.

37. The system of claim 29 wherein the identified media is pushed to the system.

38. The system of claim 29 wherein the display device is one of a plasma display, a liquid crystal display, or a TV screen.

## EVIDENCE APPENDIX
## (37 C.F.R. § 41.37(c)(1)(ix))

(1) U.S. 6,601,237 ("Ten Kate"), entered into record by Examiner in July 18, 2008 Office Action.

(2) U.S. 2002/0054752 ("Wood"), entered into record by Examiner in February 2, 2009 Office Action.

(3) U.S. 2002/0166127 ("Hamano"), entered into record by Examiner in November 15, 2007 Office Action.

(4) U.S. 2004/0261096 ("Matz"), entered into record by Examiner in August 3, 2007 Office Action.

**RELATED PROCEEDINGS APPENDIX**
**(37 C.F.R. § 41.37(c)(1)(x))**

The Applicants are unaware of any related appeals or interferences that may affect the present application.